

FEDERAL MEDIATION AND CONCILIATION SERVICE

Washington, D.C.

"Collective Bargaining in the Health Sector--
Through Impasse to Settlement"

An Address by

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IT IS GRATIFYING TO ME PERSONALLY
THAT MY VERY IRREGULAR SCHEDULE--SOME OF
MY ASSOCIATES CALL IT A NON-SCHEDULE,
ESPECIALLY WHEN IT GETS IN THE WAY OF
THEIR OWN PLANS--HAS ALLOWED ME TO BE WITH
YOU TODAY.

WHEN STEVE DIAMOND INVITED ME
ABOUT THE MIDDLE OF JULY, I ACCEPTED WITH
THE STIPULATION THAT SOME UNFORESEEN
EMERGENCY MIGHT COMPEL ME TO SEND A
SUBSTITUTE.

IF YOU DOCTORS THINK YOU HAVE
A CORNER ON UNFORESEEN EMERGENCIES, TRY
SPENDING A LITTLE TIME WITH YOUR FRIENDLY
HOME-TOWN FEDERAL MEDIATOR.

HE NOT ONLY HANDLES UNFORESEEN
EMERGENCIES--PRACTICALLY ALL OF THEM ARE
HOUSE CALLS.

AS YOU KNOW, THE WHOLE FIELD OF
LABOR RELATIONS IN HOSPITALS AND HEALTH-
CARE INSTITUTIONS IS RELATIVELY NEW TO US
IN THE FMCS--EXACTLY AS NEW AS COVERAGE
UNDER THE LABOR-MANAGEMENT RELATIONS ACT
IS TO ALL OF YOU.

TO BE SURE, WE IN THE FMCS BEGAN WITH THE EXPERIENCE IN OTHER AREAS OF COLLECTIVE BARGAINING.) AND YOU BEGAN WITH A DISADVANTAGE THAT WAS REPORTED TO ONE OF OUR LOCAL NEWSPAPER COLUMNISTS HERE IN WASHINGTON, BILL GOLD.

FOR THE BENEFIT OF YOU DELEGATES FROM OUT OF TOWN, LET ME EXPLAIN THAT JACK ANDERSON AND BILL GOLD ARE THE BEST-READ COLUMNISTS IN WASHINGTON.

THEY BOTH APPEAR WEEKDAYS IN THE WASHINGTON POST'S FOUR-PAGE COMICS SECTION.

JACK IS RIGHT NEXT TO PEANUTS AND
BILL IS ALONGSIDE OF BLONDIE. IT DOES
WONDERS FOR THEIR READERSHIP.

ANYWAY, BILL GOLD CARRIED THIS
ITEM ABOUT YOUR UNION:

WHEN THE DOCTORS WENT ON STRIKE
IN LOS ANGELES, NOBODY COULD DECIPHER THE
PICKET SIGNS.

I SUPPOSE THAT JOKE WILL BE MORE
APPROPRIATE WHEN YOU GET INTO PRIVATE
PRACTICE AND START SENDING OUT BILLS.
UNLESS YOU'RE PLANNING TO START A NEW
TREND, YOUR PATIENTS WON'T HAVE MUCH ELSE
TO LAUGH ABOUT.

I USED IT HERE BECAUSE IN ITS OWN WAY IT DEALS WITH COMMUNICATIONS. AND COMMUNICATIONS PLAYS A VERY LARGE PART IN WHAT YOU HAVE ASKED ME TO TALK ABOUT TODAY.

IN HIS LETTER, STEVE DIAMOND SUGGESTED SOMETHING LIKE "COLLECTIVE BARGAINING IN THE HEALTH SECTOR-- THROUGH IMPASSE TO SETTLEMENT."

HE HAS SINCE SENT ALONG, UNOFFICIALLY, AN INFORMAL TRANSLATION, WHICH GOES SOMETHING LIKE THIS: "HOW CAN WE TURN A DEADLOCK INTO A DEAL WITHOUT STRIKING THE JOINT?"

THIS PUTS THE QUESTION IN TERMS THAT A SIMPLE MACHINIST LIKE ME CAN UNDERSTAND. I WISH I COULD TELL YOU TO SIT BACK AND WAIT FOR A SIMPLE ANSWER.

LET'S START WITH THE PROPOSITION, ACCEPTED BY JUST ABOUT EVERYONE, THAT HEALTH CARE INSTITUTIONS OFFER SOME SPECIAL PROBLEMS IN LABOR-MANAGEMENT RELATIONS, AND THAT YOUR PARTICULAR AREA IS THE MOST SPECIAL OF ALL.

PLEASE NOTICE THAT I DID NOT SAY
UNIQUE. THERE ARE OTHER OCCUPATIONAL
GROUPS, BOTH PROFESSIONAL AND
NON-PROFESSIONAL, WHOSE COLLECTIVE
BARGAINING PROGRAMS INVOLVE DILEMMAS
VERY MUCH LIKE YOURS--RIGHT UP TO THE
THRESHOLD OF LIFE AND DEATH.

BUT IN EXTENDING THE PROTECTION
OF THE FEDERAL LABOR LAW TO THE TWO AND A
HALF MILLION EMPLOYEES OF SOME 23,000
INSTITUTIONS IN THE PRIVATE HEALTH CARE
SECTOR, CONGRESS DID ATTACH SOME UNIQUE
PROCEDURES.

FOR ONE THING, THE PARTIES ARE REQUIRED TO GO THROUGH A MEDIATION STAGE BEFORE A STRIKE OR LOCKOUT CAN TAKE PLACE. FOR ANOTHER, THE DIRECTOR OF THE FMCS IS EMPOWERED--THOUGH NOT OBLIGED--TO APPOINT A BOARD OF INQUIRY IN ANY DISPUTE, TO DETERMINE FACTS AND MAKE RECOMMENDATIONS.

THERE IS ALSO A SPECIFIC TIMETABLE COVERING VARIOUS STEPS IN THE BARGAINING-MEDIATION-FACTFINDING SYSTEM, INTENDED TO GIVE THE PARTIES AMPLE TIME TO REACH AGREEMENT, BUT ALSO TO PREVENT NEGOTIATIONS FROM DRAGGING ON INDEFINITELY.

WE IN THE FMCS WELCOMED THE INCLUSION OF PRIVATE HEALTH CARE INSTITUTIONS UNDER THE ACT AS A LONG STRIDE TOWARD MORE PEACEFUL LABOR-MANAGEMENT RELATIONS. WE KNEW THAT MOST OF THE STRIKES AT THESE INSTITUTIONS HAD BEEN OVER THE ISSUE OF UNION RECOGNITION; NOW THE MACHINERY OF THE NATIONAL LABOR RELATIONS BOARD WOULD PROVIDE A FAR BETTER ALTERNATIVE.

BUT WE WERE APPREHENSIVE ABOUT THE THE SCOPE OF THE ROLE ASSIGNED TO US.

EVEN THOUGH WE FULLY REALIZED THAT THE NEW LAW WOULD BE THE KICKOFF FOR NEW ORGANIZING CAMPAIGNS BY AT LEAST A DOZEN UNIONS CLAIMING JURISDICTION IN PARTS OF THE HEALTH SERVICE FIELD--OR IN ALL OF IT-- WE WERE TOO CONSERVATIVE. WE THOUGHT THERE WOULD BE ABOUT 750 CONTRACT NEGOTIATIONS DURING THE FIRST YEAR. ACTUALLY THERE WERE TWICE AS MANY.

ONE FACTOR THAT CONTRIBUTED TO OUR MISCALCULATION OF THE CASE VOLUME WAS THE HIGH PROPORTION OF INSTANCES IN WHICH THE HOSPITAL EMPLOYEES BEGAN PUTTING TOGETHER A UNION ON THEIR OWN, RATHER THAN WAITING FOR A PROFESSIONAL ORGANIZER TO COME ALONG. THIS KIND OF SPONTANEOUS ACTION WAS COMMON IN THE EARLY YEARS OF THE WAGNER ACT, WHEN THE RIGHT TO ORGANIZE FIRST CAME UNDER GOVERNMENT PROTECTION. I IMAGINE THE REACTION OF HEALTH CARE WORKERS WAS MUCH THE SAME, FOR THE SAME REASON.

DESPITE OUR ORIGINAL MISCALCULATIONS, THE RESULTS HAVE, I THINK, CONFIRMED THE SOUNDNESS OF THE PLAN ITSELF.

OUR WORKLOAD--IF YOU DON'T MIND MY USING THE WORD--HAS AMOUNTED, AS OF SEPTEMBER 1, TO 1,638 CASES DURING THE LAST YEAR. WE HAVE CLOSED 1,127 OF THEM.

NOW I WILL LET YOU IN ON ONE OF OUR TRADE SECRETS, WHICH IS MORE THAN DOCTORS USUALLY DO FOR PATIENTS.

WHEN WE SAY A CASE IS "CLOSED," WE DON'T MEAN THERE HAS BEEN A SETTLEMENT THAT PLEASES EVERYONE.

AS A MATTER OF FACT, WE MAY HAVE
BORROWED THE TERM FROM YOUR PROFESSION.
WHEN A CASE IS CLOSED IT MEANS THAT THE
PATIENT HAS RECOVERED. . . THAT HE HAS DIED. . .
OR THAT HE HAS CHANGED DOCTORS.

I'M HAPPY TO TELL YOU THAT IN OUR
LINE OF WORK THE MORTALITY RATE IS VERY
LOW AND THE GREAT MAJORITY OF PATIENTS
RESPOND TO TREATMENT.

IN ONLY 58 CASES OUT OF THE 1,638
HAVE I APPOINTED A BOARD OF INQUIRY.
THAT'S ABOUT ONE CASE OUT OF 30. A YEAR
AGO WE PREDICTED THAT A BOARD WOULD BE
NEEDED IN ONE CASE OUT OF FOUR. THERE HAVE
BEEN JUST 47 STRIKES, ONLY THREE THAT COULD
BE DESCRIBED AS SERIOUS EITHER IN SIZE OR
DURATION.

WE MAY BE OFF THE MARK ON OUR GUESSES BUT WE ARE NOT BABES IN THE WOODS. WE DISCOVERED VERY EARLY IN THE GAME THAT WHEN WE NAMED THE BOARDS OF INQUIRY, THE PARTIES--MORE OFTEN THAN NOT--JUST SAT BACK AND WAITED FOR THE BOARD REPORT. ONLY THEN DID THEY GET DOWN TO THE BUSINESS OF BARGAINING.

THIS EXPERIENCE HAS CAUSED US TO TAKE A MORE CRITICAL LOOK AT THE CONDITIONS THAT MIGHT WARRANT THE APPOINTMENT OF A BOARD.

BECAUSE OF THOSE EARLY EXPERIENCES,
WE HAVE BECOME MORE CAUTIOUS--WE HAVE
ESTABLISHED A CRITERIA THAT LOOKS TO THE
NET EFFECT. WE WILL NOW APPOINT A BOARD
NOT ONLY WHEN THE QUESTION OF COMMUNITY
IMPACT IS INVOLVED, BUT WHEN IT WILL
OBJECTIVELY SERVE THE PURPOSE OF COLLECTIVE
BARGAINING--WHICH, OF COURSE, WAS THE
REASON CONGRESS PASSED THE LAW.

THIS ISN'T WHAT CONGRESS INTENDED.
AND IT CERTAINLY ISN'T OUR CONCEPTION
EITHER. OUR GOAL--OUR MANDATE UNDER THE
LAW --IS TO ASSIST THE PARTIES TO REACH
AGREEMENT BETWEEN THEMSELVES.

NOW LET ME TRY TO RELATE ALL OF
THIS BACKGROUND TO YOUR PARTICULAR
SITUATION AS A VERY UNUSUAL LABOR OR
ORGANIZATION.

ON THE LEGAL FRONT, AS I UNDERSTAND IT, YOU ARE AWAITING A LABOR BOARD DECISION CONFIRMING YOUR RIGHT TO FUNCTION AS A BARGAINING UNIT FOR HOUSE STAFF PHYSICIANS--A FUNCTION YOU HAVE BEEN EXERCISING IN NEW YORK CITY FOR SOME 17 YEARS, AND FOR SHORTER PERIODS IN LOS ANGELES AND SEVERAL OTHER CITIES. YOU EXPECT--IF NLRB DECISION IS FAVORABLE-- TO BE RECOGNIZED AS BARGAINING AGENT IN A DOZEN MORE LOCALITIES.